

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

GENE FAVORS,

Petitioner,

v.

Case Number 09-12121-BC
Honorable Thomas L. Ludington

SHIRLEE HARRY,

Respondent.

**ORDER DENYING WITHOUT PREJUDICE MOTION FOR APPOINTMENT OF
COUNSEL**

On June 2, 2009, Petitioner Gene Favors filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 10, 2009, the Court ordered Respondent to file an answer, along with the Rule 5 materials. Now before the Court is Petitioner's motion for appointment of counsel [Dkt. # 9]. Notably, "appointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege and not a right." *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (internal quotations omitted).

Nonetheless, a habeas petitioner may obtain representation at any stage of the case "[w]henever the United States magistrate or the court determines that the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B). At this juncture, the interests of justice do not require appointment of counsel in this case. Petitioner's motion will be reconsidered if, following receipt of the necessary Rule 5 materials, appointment of counsel is justified. Petitioner need not file any further motions to appoint counsel.

Accordingly, it is **ORDERED** that Petitioner's motion for appointment of counsel [Dkt. #9] is **DENIED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: February 2, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 2, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS